

## WEST DUNBARTONSHIRE COUNCIL

### Report by the Executive Director of Infrastructure and Regeneration

#### Infrastructure, Regeneration and Economic Development Committee: 18 June 2014

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**Subject: Alexandria, Mitchell Way Development Opportunity- Compulsory Purchase Order**

### **1. Purpose**

- 1.1** To seek agreement from Committee to the compulsory purchase of various interests in land from the Smollett Family Estate within and adjacent to the Mitchell Way development site in Alexandria town centre in order to allow the re-development of Alexandria town centre.

### **2. Recommendation**

- 2.1** It is recommended that the Infrastructure, Regeneration and Economic Development Committee:

- (i) agree to the terms of the compulsory purchase of land within and adjacent to the Mitchell Way development site;
- (ii) agree a resolution, in accordance with paragraph 40 of Scottish Government Circular 6, 2001, authorising the making of a Compulsory Purchase Order (CPO) over the land identified in Appendix 1; and thereafter authorise the Executive Director of Infrastructure and Regeneration to conclude the acquisition of such land.
- (iii) agree to the allocation of existing funds from the Local Economic Development Budget within the General Services Capital Plan 2014/15 towards settlement of compensation, as detailed in Section 6 of this report.
- (iv) authorise the Head of Legal, Democratic and Regulatory Services to make such minor amendments to such order as he deems appropriate to meet the intended acquisition of the land.

### **3. Background**

- 3.1** The Mitchell Way site is a key regeneration opportunity for the Council as identified in the Council's Economic Development Strategy, Infrastructure Investment Plan and the Local Development Plan. The site is currently occupied by obsolete residential and deteriorating commercial buildings and contains large areas of underutilised car parking.

- 3.2** A report to the 7 September 2011 meeting of the Housing Environment and Economic Development (HEED) Committee advised of a Notice of Title which the Council had taken out on land with a view to regularising the title.
- 3.3** A report to the 26 February 2014 meeting of HEED Committee advised of a challenge to the Notice of Title which was received by the Council during the marketing of the development opportunity.
- 3.4** The Council commenced the marketing of the Mitchell Way development site to developers on 22 March 2013. A preferred bidder has been chosen from the two tenders received for the Mitchell Way development site. However given the layout of both tender returns it has been necessary to add two additional sites as part of the agreement with the Smollett Family Estate.

#### **4. Main Issues**

- 4.1** The Council took out a Notice of Title on 11 November 2010 in relation to land that comprised of former roads within the Mitchell Way development site (see Appendix 1). These were areas of land for which the Council did not have clear title. The Notice of Title had a 10 year prescriptive period during which time it was open to challenge.
- 4.2** Solicitors representing the Smollett Family Estate challenged the Council's Notice of Title on 2 May 2013. Clearly this challenge is within the 10 year prescriptive period. The Council's Legal officers scrutinised the challenge and concluded that the Smollett Estate had a better claim to title of these areas than the Council. Council officers appointed a representative to engage in negotiations aimed at arriving at a voluntary agreement over the purchase of the subjects, and the Council issued a formal offer on 27 January 2014.
- 4.3** Compensation of £100,000 has been agreed with the Smollett Family Estate, plus expenses of £5,000. However the Smollett Family Estate are unable to guarantee what they own in Alexandria and will therefore not grant absolute warrandice. This creates uncertainty for the Council in our future dealings with the land and may impact upon the indemnity provided by the Keeper of the Registers of Scotland. In a development of this kind, uncertainty could hamper the Council's ability to develop the site and delay or potentially halt the Council's ambition to regenerate and revitalise the area for the people of Alexandria.
- 4.4** The Council's Legal department has recommended that a Compulsory Purchase Order (CPO) be pursued in this instance to ensure clean title is obtained by the Council and remove any potential for legal challenge to the Council's title. A draft CPO and plan is attached at Appendix 1. The Smollett Estate has agreed to not contest the CPO on the basis that compensation has already been agreed. As a result, according to Scottish Government published timescales, it is anticipated that the CPO could be processed in approximately 4-6 months, assuming no other prospective owners are identified.

- 4.5** In accordance with paragraph 40 of Scottish Government Circular 6 – 2001, Compulsory Purchase Orders is as follows, “a *Committee with delegated powers must pass a resolution authorising the making of a Compulsory Purchase Order (see Appendix 1). The report to the Committee should explain the public benefits to be delivered by the scheme and explain why these over-ride the interests of the people affected. The extent of the land to be acquired should be shown on a map attached to the Committee papers (see Appendix 1). The resolution must refer to the acquisition of all land included in the order, for the purpose identified in the order*”. The following paragraphs of this report therefore address these points.

#### Public Benefits to be Delivered by the Scheme

- 4.6** The site is a key regeneration opportunity for the Council as identified in the Council’s Economic Development Strategy, Infrastructure Investment Plan and Local Development Plan. The site is currently occupied by obsolete and out-dated residential and commercial buildings which have been increasingly difficult to maintain and adapt to current demands. It is also dominated by an out-dated gyratory road layout and contains large areas of underutilised car parking.
- 4.7** The Council has selected a preferred bidder to deliver a food store in the region of 35,000 sq ft, ancillary residential and commercial uses along with improved public realm and road infrastructure works. The redevelopment will maximise the use of this land in the town centre for the benefit of local residents and visitors, providing a modern shopping offer. It will reduce retail expenditure leakage out of Alexandria to surrounding areas, improve footfall levels in the town centre and have a positive knock-on effect for existing businesses operating in the town. In particular, residents of Alexandria and the Vale of Leven, which amounts to a population of 29,369, will no longer require to travel outside their local area to gain access to a larger food store. The preferred bid indicates a new public space for the town, adjacent to Bank Street. In this respect the proposal will have a transformational impact on Alexandria. By contrast, to not progress this redevelopment opportunity now would risk continuing the general downward trend in occupancy and inward investment within Alexandria town centre. There is therefore a compelling case to be made for the public benefits of the scheme, which outweighs the interests of the landowner in question.

#### Extent of Title

- 4.8** The title which the Council is seeking to acquire through the CPO process includes, within the development site, the sola of three former roads; Random Street, Church Street and John Street. Additionally, adjacent to the development site, the title includes a section of the former solum of the historic route of Bank Street (currently an area of grass verge), along with an area of land needed to regularise the eastern boundary of the development site. In total there are four distinct parcels of land that form the proposed CPO (Appendix 1).

#### Proposed Use of Land

- 4.9 The project will involve demolitions, land and road works, the delivery of a food store, ancillary commercial and residential uses and public realm and infrastructure improvements. The land parcels would be used in the delivery of the above development components.

### **5. People Implications**

- 5.1 There are no people implications in connection with this report.

### **6. Financial Implications**

- 6.1 Under the terms of the agreement in principle with the Smollett Family Estate, the compensation figure for the land is £100,000 plus £5,000 expenses (£105,000 total). The agreement with Tartan Developments is for an 80:20 split of the compensation translating into an £84,000 contribution from the Council and £21,000 from Tartan. This ratio has been determined based on the area of land which falls out-with the Council's development site boundary i.e. 20%, which the developer requires.

- 6.2 As part of this report, approval is being sought for the allocation of existing funds available for this purpose from the Local Economic Development Budget within the General Services Capital Plan 2014/15 to settle the purchase. The Local Economic Development Budget will then be recompensed from the proceeds of the sale with the balance held under General Funds from the Developers, as reported to HEED Committee of 26 February 2014 and anticipated in 2016/17.

### **7. Risk Analysis**

- 7.1 The ability of the Council to provide the Developer with a clean title would be significantly compromised if the Compulsory Purchase was not successful and the Council may not be in a position to realise its regeneration ambitions. This would further delay the regeneration of Alexandria town centre for an indeterminate length of time. It would increase the chances of the continued decline of the town centre and also miss the opportunity of significant investment in the town centre.

- 7.2 There is a potential risk that should the CPO progress, the Order may not be granted by the Scottish Ministers. However, as the purpose of the Order would be linked to significant regeneration outcomes it is considered that a CPO would have a strong likelihood of success.

### **8. Equalities Impact Assessment (EIA)**

- 8.1 An equalities impact assessment has been carried out on this report (Appendix 2). No significant negative impacts were identified. Furthermore a screening was carried out on the wider regeneration project as detailed in the report to the September 2011 meeting of HEED where it was identified as not being relevant under the general equality duty.

## **9. Consultation**

- 9.1** The Council has been in dialogue with representatives of the Smollett Estate through a representative. The preferred bidder has been notified that this issue has arisen. No other current consultation is required or planned at present.

## **10. Strategic Assessment**

- 10.1** The redevelopment of Mitchell Way and surrounding area is a key stage in the regeneration of Alexandria town centre. It will contribute to the social and economic regeneration of the area and create jobs during the construction period and thereafter through the operation of the food store. As such the report supports the Council's strategic priorities of improving economic growth and employability and improving local housing and environmentally sustainable infrastructure.

**Richard Cairns**  
**Director of Infrastructure and Regeneration**  
**Date: 4 June 2014**

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**Appendices:** Appendix 1 – Draft Compulsory Purchase Order and Plan  
Appendix 2 - Equality Impact Assessment Form

**Background Papers:** Report to HEED Committee of 7 September 2011 entitled  
Alexandria Masterplan: Mitchell Way Redevelopment  
Site;

Report to HEED Committee of 26 February 2014 entitled  
Preferred Bidder for Mitchell Way Redevelopment Site,  
Alexandria

**Wards Affected:** 2